



# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

### Testimony

#### Insurance and Real Estate Committee

March 12, 2013

**S.B. No. 1088- An Act Establishing A Task Force To Study Adverse Determinations By Health Carriers For the Treatment of Mental Disorders**

The Department appreciates the opportunity to offer testimony on S.B. 1088 and share and discuss with the Committee the spectrum of regulatory tools we can and do use daily under the Commissioner's authority provided by 38a-8 C.G.S. to regulate insurers and protect the public, particularly as they apply to this legislation. S.B. 1088 would establish a task force to study the numbers, frequencies and final outcomes of adverse determinations made by health carriers for the treatment of mental disorders, where such treatments were determined to be medically necessary by a covered person's treating health care professional.

The Insurance Commissioner possesses the authority to protect consumers and regulate the industry. Additionally, Connecticut law was enhanced in July 2011 which brought our laws into full compliance with the requirements under the federal Affordable Care Act (ACA).

The Department is currently working within the oversight bodies that exist to strengthen and improve private insurance coverage of mental health treatment. Specifically, the Department has collaborated extensively over months with the Program Review and Investigations (PRI) Committee and is in the process of adopting some of their recommendations as well as our own. The Department, at Commissioner Leonardi's direction, developed a comprehensive response to the PRI Committee report in January, sharing it with PRI and this Committee, the Department committee of cognizance. This ongoing work complements the protections already in place that ensure consumers receive a full and fair review of their requests for medical services including mental health services.

All consumers covered under fully insured plans issued in Connecticut are protected under the authority of the Insurance Department. This includes the right to appeal denials of services including mental health treatment to the insurance company for further review. When a consumer comes to us with questions or complaints about adverse determinations, we explain their appeal rights through the carrier as well as their right on medical necessity issues to an external review by a neutral objective third party. For issues of an urgent nature, the consumer may request an expedited review. If the consumer is unsuccessful in receiving approval for services through the carrier appeal process, the consumer may seek an independent review through the State of Connecticut External Review program administered through the Insurance Department. This is the appropriate forum for review of disputes related to medical necessity of services.

The External Review program provides an independent review of the denied services by an Independent Review Organization that has no financial stake in the outcome of their medical necessity decision. All Independent Review Organizations are unaffiliated with the insurance companies. Under Connecticut law, the Independent Review Organization must assign a reviewer who is a Clinical Peer, meaning that health care professional is an expert in the treatment of the covered person's medical condition and holds a license and certification in the medical specialty that is the subject of the review. If the reviewer finds in favor of the consumer, the insurance company must immediately approve payment for the services. Historically, the External Review program has overturned 30 percent to 40 percent of denials reviewed.

The Department also has a contract in place with University of Connecticut Health Center and utilizes the services of physicians and psychiatrists to help the Department evaluate a carrier's protocols and claim denials.

The Department's Market Conduct division thoroughly monitors carriers' claims activity in its review of health insurers and HMOs which can include a utilization review company or a vendor. In addition, Market Conduct can and does perform a targeted review of a specific company on specific mental health or other issues, as warranted. In the past three years, for example, our Market Conduct unit examined the business practices and claims activity of seven health carriers and found a number of instances where the carrier was not abiding by state law. Not only did it result in corrective action, but also \$600,000 in fines that went directly to the General Fund. These completed exams and subsequent fines are all public information and posted on our Web site. It is important to note that while Market Conduct exams are underway they are confidential until completed. As such, any current exams cannot be discussed at this time.

Finally, the Department does not operate in a vacuum. Our Consumer Affairs staffers work closely with hundreds of our fellow citizens each year to help them resolve disputes, access insurance coverage, understand their rights under the law and hold insurance companies accountable when they violate state laws and regulations. It is the former part of that equation – the consumers – we are charged to protect. They are not statistics or numbers on a chart, but mothers, fathers, family members – our neighbors – who reach out to the Department in the most stressful of times. Insurance is complex but the commitment to help protect our citizens is not. It is the essence of what we do. We enforce the laws on the books to help protect them and we are working to enhance those protections.

The Department thanks the Committee for the opportunity to convey to you and the public the efforts that already exist by the Department on behalf of the people of the state of Connecticut.